

AMENDED IN ASSEMBLY JULY 8, 2003

AMENDED IN ASSEMBLY JULY 1, 2003

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE MAY 20, 2003

AMENDED IN SENATE APRIL 28, 2003

AMENDED IN SENATE APRIL 10, 2003

AMENDED IN SENATE APRIL 8, 2003

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**SENATE BILL**

**No. 888**

**Introduced by Senators Dunn, Bowen, and Burton**  
**(Coauthors: Senators Cedillo, Escutia, Karnette, Kuehl, Murray,**  
**Ortiz, Perata, and Romero)**  
(Coauthors: Assembly Members Leno, Matthews, Oropeza, and  
Steinberg)

February 21, 2003

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An act to amend Sections 348, 352, 364, ~~367~~, 377, 379, ~~392~~, and ~~9604~~  
*and* 392 of, to amend and renumber Section 454.1 of, to add Sections  
330.1, 330.2, 330.4, 330.6, 364.5, 367.5, 393.2, 454.51, 454.55, and  
454.10; to, to repeal Sections 334, 338, 341.1, 341.5, 346, 350, 355,  
356, 359, 360, 361, ~~365.5~~, ~~366.5~~, 367.7, 370, 373, 376, 378, 389, 391,  
397, 9600, 9601, 9602, 9603, and 9605 of, and to repeal and add  
~~Sections 330, 365, and 366~~ *Section 330* of, the Public Utilities Code,  
relating to public utilities.

## LEGISLATIVE COUNSEL'S DIGEST

SB 888, as amended, Dunn. Public utilities: electrical restructuring.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. Private corporations and persons that own, operate, control, or manage a line, plant, or system for the production, generation, transmission, or furnishing of heat, light, or power, directly or indirectly, to or for the public, are public utilities subject to control by the Legislature. The Constitution grants the commission certain general powers over all public utilities, including the power to fix rates and establish rules, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. The Public Utilities Act authorizes the commission to supervise and regulate every public utility in the state, including electrical, gas, and heat corporations, subject to provisions restructuring the electrical industry.

The existing restructuring of the electrical services industry provides for the authorization of direct transactions between an electric service provider, as defined, and retail end-use customers of an electrical corporation and allows end-use customers to aggregate their loads to facilitate direct transactions. The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO) and a Power Exchange as separately incorporated public benefit nonprofit corporations. An Electricity Oversight Board (Oversight Board) is also established to oversee the ISO and the Power Exchange in order to ensure the success of electric industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure. The ISO is required by existing law to participate in all relevant proceedings of the Federal Energy Regulatory Commission (FERC). Pursuant to an order of the FERC, the Power Exchange has ceased to function. The Oversight Board is granted various powers including, but not limited to, requiring the revision of the bylaws of the ISO and the approval of the entry of the ISO into a multistate entity or a regional organization. ~~Existing law requires the ISO to adopt certain inspection, maintenance, repair, and replacement standards for the transmission facilities under its control and to make a related report to the Oversight Board.~~ Existing law authorizes the ISO and the Power Exchange to enter into a regional



compact or other comparable agreement to become western states regional organizations.

*Existing law requires the commission to adopt and periodically review and update maintenance, repair, and replacement standards for the distribution systems of investor-owned electric utilities, and adopt performance or prescriptive standards, or both, to provide for high quality, safe and reliable service. The commission is required to conduct a review to determine whether the standards have been met and if not, to order appropriate sanctions. Existing law requires the ISO to adopt inspection, maintenance, repair, and replacement performance or prescriptive standards, or both, for transmission facilities under its control, to provide for high quality, safe and reliable service, and to make a related report to the Oversight Board.*

This bill would enact the Repeal of Electricity Deregulation Act of 2003. The bill would provide that electrical and gas corporations have an obligation to serve retail customers with reliable service at just and reasonable rates. The bill would provide that this obligation includes a duty to furnish and maintain adequate, efficient, just, and reasonable service, and to employ those instrumentalities, equipment, and facilities that are necessary to promote the safety, health, comfort, and convenience of utility customers, employees, and the public, while promoting a sustainable environment, consistent with the statutes of the state and the rules, regulations, decisions, and orders of the commission. The bill would provide that this obligation to serve also includes the obligation to plan for and provide sufficient, affordable, and reliable resources, including utility owned and procured generation resources, renewable generation resources, transmission and distribution resources, and cost-effective energy efficiency resources. The bill would require the commission to ensure that the electrical corporation is afforded the means to carry out these obligations, specifically including a reasonable opportunity to fully recover from all customers, reasonable costs to operate and maintain those resources, reasonable compensation for employees, a return of and a reasonable return on ~~prudent~~ *reasonable* investments in utility owned generation, transmission, and distribution resources necessary to meet the above obligations, and reasonable costs for procured generation resources. The bill would require the commission to ensure that generation assets remain dedicated for the benefit of the electrical corporation's bundled customers, and establishes standards for the recovery of costs and return on investment. The bill requires the commission to establish and



~~oversee~~ *implement* a long-term, comprehensive integrated resource planning process that results in a balanced, reliable, environmentally responsible portfolio of supply and demand-reduction resources, and to ensure that the electrical corporation's procurement plan is consistent with the long-term resource plan, to the extent feasible, *and to require an electrical corporation first acquire certain cost-effective energy efficiency resources.* The bill would authorize the commission to require electrical corporations to make investments in electric generation plants that are dedicated to serve customers connected to the electrical corporation's distribution system or grid, or to contract for such investment with any entity, including the California Consumer Power and Conservation Financing Authority. *The commission would be required to approve rates that provide the electrical corporation a reasonable opportunity to recover its reasonable costs of operating, its reasonable investment in, and a reasonable return on its investment in electric generation plants, while protecting the interests of consumers by ensuring that electricity is provided in the most cost-effective and efficient manner.*

*This bill would require the commission to adopt and periodically review and update maintenance, repair, and replacement standards for the distribution systems of investor-owned electric utilities, to provide for high quality, safe and reliable service. This bill would require the ISO, in consultation with the commission, to adopt and periodically review and update inspection, maintenance, repair, and replacement standards for transmission facilities under the control of the ISO, to provide for high quality, safe and reliable service, and to adopt standards for reliability and safety during periods of emergency and disaster. The commission is required to conduct a review to determine whether the standards adopted by the commission for public utility distribution systems, and the standards adopted by the ISO for transmission facilities under its control, have been met and if not, to order appropriate sanctions. The review would be required after every major electrical outage. Because the bill would subject all transmission facilities, including those of entities that are not public utilities, to the jurisdiction of the commission, and because a violation of an order of the commission is a crime, the bill would impose a state-mandated local program by expanding the definition of a crime.*

This bill would require all metering of customer usage of electricity and customer billing to be performed by the electrical corporation and would prohibit residential and small commercial customers being



required to take service under a time-differentiated rate without prior consent.

This bill would delete those provisions establishing the Power Exchange. The bill would delete provisions relative to the ISO participation in FERC activities. The bill would require the Legislature to approve the entry of the ISO into a multistate or regional transmission organization, ~~and would repeal that provision regarding the adoption of standards for transmission facilities by the ISO. The bill would require the commission to adopt and periodically review and update inspection, maintenance, repair, and replacement standards for the distribution systems of investor-owned electric utilities. The bill would require the commission to develop, and submit to the Legislature for enactment as a statute, a detailed proposal for implementation of a “core/noncore” model for retail electric service that achieves certain objectives. The bill would prohibit the commission from authorizing any direct transaction until the commission has developed, and the Legislature enacted, a “core/noncore” model for retail electric service. The bill would authorize a customer that receives electricity pursuant to a direct transaction on April 1, 2003, to continue to be served by the electric service provider. The bill would repeal the regional compact provision. The bill would make other conforming changes. Because any violation of the Public Utilities Act is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.~~

This bill would establish a Ratepayer Refund Account for each electrical corporation, into which would be paid in a manner and amount authorized by the commission, *and dispersed for the benefit of ratepayers*, any funds recovered by electrical corporations resulting from litigation or agreement relative to the charging of excessive costs for wholesale electricity by electrical generators. ~~All funds would be held in trust for the benefit of ratepayers.~~

(2) *Existing law requires the commission to continue to regulate the facilities for the generation of electricity owned by any public utility prior to January 1, 1997, and prohibits a facility for the generation of electricity owned by a public utility from being disposed of prior to January 1, 2006. Existing law requires the commission to ensure that public utility assets remain dedicated to service for the benefit of the public.*

*This bill would require the commission to continue to regulate the facilities for the generation of electricity owned by any public utility and would require the commission to ensure that public utility assets remain*



*dedicated to service for the benefit of the electrical corporation's bundled ratepayers.*

(3) This bill would delete provisions relative to the restructuring of electrical service provided by publicly owned electrical utilities.

~~(3) This bill would require the commission to establish by July 1, 2004, special bundled service rates for public school facilities, as defined, that reflect the typical seasonal load shape of public schools and the special importance of public education.~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 330 of the Public Utilities Code is  
2 repealed.

3 SEC. 2. Section 330 is added to the Public Utilities Code, to  
4 read:

5 330. The act adding this section shall be known and may be  
6 cited as the Repeal of Electricity Deregulation Act of 2003.

7 SEC. 3. Section 330.1 is added to the Public Utilities Code, to  
8 read:

9 330.1. The Legislature finds and declares all of the following:

10 (a) Electricity is a unique good in modern society, not a simple  
11 commodity. Access to safe, reliable, clean, efficient, and  
12 affordable electrical service is indispensable to the health,  
13 comfort, and well-being of every person and business in  
14 California.

15 (b) It is in the public interest to repudiate the failed policies of  
16 electrical industry ~~regulation~~ *deregulation* and instead achieve  
17 effective state regulation of California's electrical corporations in  
18 order to protect ratepayers, ensure adequate, safe, and efficient  
19 electrical service, and to protect public health and the  
20 environment.

1 (c) In carrying out its duties under this code, the commission  
2 shall assure the provision of reliable service at the lowest  
3 reasonable cost.

4 SEC. 4. Section 330.2 is added to the Public Utilities Code, to  
5 read:

6 330.2. It is the intent of the Legislature to achieve effective  
7 state regulation of California's public utilities in order to protect  
8 ratepayers and ensure adequate and efficient electrical service, to  
9 protect public health and the environment, and to pursue the  
10 following policy goals:

11 (a) Ensure the commission's first priority in carrying out its  
12 duties to protect consumers.

13 (b) Restore and affirm the public utility's obligation to serve.

14 (c) Protect public health and the environment.

15 (d) Establish a comprehensive integrated resource planning  
16 process under regulation that results in a balanced, reliable,  
17 environmentally responsible portfolio, consisting of a  
18 cost-effective mix of customer owned, utility-owned, and nonutility  
19 supply and demand reduction resources, and is consistent with  
20 Sections 454.5 and 701.1 and Article 16 (commencing with  
21 Section 399.11) of this code and Chapter 4 (commencing with  
22 Section 25300) of Division 15 of the Public Resources Code.

23 (e) Provide an open regulatory forum where all persons  
24 affected by public utility service and rates can observe and  
25 participate in the decisionmaking process.

26 ~~SEC. 4.—~~

27 SEC. 5. Section 330.4 is added to the Public Utilities Code, to  
28 read:

29 330.4. The actions of the commission pursuant to this part, as  
30 they affect electrical service, shall be consistent with the ~~findings~~  
31 ~~and declarations~~ findings, declarations, and policy goals  
32 contained in this article.

33 ~~SEC. 5.—~~

34 SEC. 6. Section 330.6 is added to the Public Utilities Code, to  
35 read:

36 330.6. (a) Because of their status as public utilities pursuant  
37 to Article XII of the California Constitution, and consistent with  
38 Sections 399.2 and 451, electrical corporations and gas  
39 corporations that serve retail customers have an obligation to serve  
40 those customers with reliable service at just and reasonable rates.



(b) This obligation to serve includes a duty to furnish and maintain adequate, efficient, just, and reasonable service, and to employ those instrumentalities, equipment, and facilities that are necessary to promote the safety, health, comfort, and convenience of utility customers, employees, and the public, while promoting a sustainable environment, consistent with the statutes of the state and the rules, regulations, decisions, and orders of the commission. The obligation to serve includes the obligation to plan for, and provide, sufficient, affordable, and reliable resources, including utility owned and procured generation resources, renewable generation resources, transmission and distribution resources, and cost-effective energy efficiency resources.

(c) The commission, on behalf of end-use customers, shall ensure that the electrical corporation is afforded the means to carry out this obligation to serve, specifically including a reasonable opportunity to fully recover from all customers, in a manner determined by the commission pursuant to this code, reasonable costs to operate and maintain those resources, reasonable compensation for employees, a return of and a reasonable return on ~~prudent~~ *reasonable* investments in utility owned generation, transmission, and distribution resources necessary to meet the obligations pursuant to subdivision (b), and reasonable costs for procured generation resources in accordance with Section 454.5.

~~SEC. 6.—~~

*SEC. 7.* Section 334 of the Public Utilities Code is repealed.

~~SEC. 7.—~~

*SEC. 8.* Section 338 of the Public Utilities Code is repealed.

~~SEC. 8.—~~

*SEC. 9.* Section 341.1 of the Public Utilities Code is repealed.

~~SEC. 9.—~~

*SEC. 10.* Section 341.5 of the Public Utilities Code is repealed.

~~SEC. 10.—~~

*SEC. 11.* Section 346 of the Public Utilities Code is repealed.

~~SEC. 11.—~~

*SEC. 12.* Section 348 of the Public Utilities Code is amended to read:

348. (a) The Independent System Operator, in consultation with the commission, shall adopt and periodically review and update inspection, maintenance, repair, and replacement standards



1 for the transmission facilities under its control. The standards for  
2 each substantial type of transmission equipment or facility, shall  
3 provide for high quality, safe, and reliable service.

4 (b) In adopting its standards, the Independent System Operator  
5 shall consider all of the following:

6 (1) Cost.

7 (2) Local geography and weather.

8 (3) Applicable codes.

9 (4) National electric industry practices.

10 (5) Sound engineering judgment.

11 (6) Experience.

12 (c) The Independent System Operator shall also adopt  
13 standards for reliability, and safety during periods of emergency  
14 and disaster.

15 (d) The Independent System Operator shall require each  
16 transmission facility owner or operator to report annually on its  
17 compliance with the standards. That report shall be made available  
18 to the public.

19 ~~SEC. 12.—~~

20 *SEC. 13.* Section 350 of the Public Utilities Code is repealed.

21 ~~SEC. 13.—~~

22 *SEC. 14.* Section 352 of the Public Utilities Code is amended  
23 to read:

24 352. The Independent System Operator may not enter into a  
25 multistate regional transmission organization unless that entry is  
26 approved by the Oversight Board and the Legislature by  
27 concurrent resolution.

28 ~~SEC. 14.—~~

29 *SEC. 15.* Section 355 of the Public Utilities Code is repealed.

30 ~~SEC. 15.—~~

31 *SEC. 16.* Section 356 of the Public Utilities Code is repealed.

32 ~~SEC. 16.—~~

33 *SEC. 17.* Section 359 of the Public Utilities Code is repealed.

34 ~~SEC. 17.—~~

35 *SEC. 18.* Section 360 of the Public Utilities Code is repealed.

36 ~~SEC. 18.—~~

37 *SEC. 19.* Section 361 of the Public Utilities Code is repealed.

38 ~~SEC. 19.—~~

39 *SEC. 20.* Section 364 of the Public Utilities Code is amended  
40 to read:

1 364. (a) The commission shall adopt and periodically review  
2 and update inspection, maintenance, repair, and replacement  
3 standards for the distribution systems of investor-owned electric  
4 utilities. The standards for each substantial type of distribution  
5 equipment or facility shall provide for high quality, safe and  
6 reliable service.

7 (b) In setting its standards, the commission shall consider: cost,  
8 local geography and weather, applicable codes, national electric  
9 industry practices, sound engineering judgment, and experience.  
10 The commission shall also adopt standards for operation,  
11 reliability, and safety during periods of emergency and disaster.

12 (c) The commission shall require each utility to report annually  
13 on its compliance with the standards. That report shall be made  
14 available to the public.

15 ~~(d) The commission shall conduct a review to determine~~  
16 ~~whether the standards prescribed in this section and Section 348~~  
17 ~~have been met. If the commission finds that the standards have not~~  
18 ~~been met, the commission may order appropriate sanctions,~~  
19 ~~including penalties in the form of rate reductions or monetary~~  
20 ~~finances. The review shall be performed after every major outage.~~  
21 ~~Any money collected pursuant to this subdivision shall be used to~~  
22 ~~offset funding for the California Alternative Rates for Energy~~  
23 ~~Program.~~

24 SEC. 20. ~~Section 365 of the Public Utilities Code is repealed.~~

25 SEC. 21. ~~Section 365 is added to the Public Utilities Code, to~~  
26 ~~read:~~

27 ~~365. The commission shall develop, and submit to the~~  
28 ~~Legislature for enactment as a statute, a detailed proposal for~~  
29 ~~implementation of a “core/noncore” model for retail electric~~  
30 ~~service that achieves each of the following objectives:~~

31 ~~(a) Permits specified electrical corporation customers to~~  
32 ~~purchase electricity directly from electric service providers.~~

33 ~~(b) Provides that noncore customers forgo both the benefits and~~  
34 ~~future-incurred costs of bundled electricity service from the~~  
35 ~~electrical corporation.~~

36 ~~(c) Provides that remaining core customers are served by the~~  
37 ~~electrical corporation’s electricity resource portfolio.~~

38 ~~(d) Requires each electrical corporation to maintain the value~~  
39 ~~of its electricity resource portfolio for core customers.~~

1 ~~(c) Ensures electrical corporations and core customers full and~~  
2 ~~timely recovery of costs, including investments in long-term~~  
3 ~~resource additions to the system, originally incurred to serve~~  
4 ~~departing customers.~~

5 ~~(f) Provides for full recovery of existing direct access~~  
6 ~~customers' energy cost obligations on a schedule comparable to~~  
7 ~~the recovery of comparable costs from core customers.~~

8 ~~(g) Provides an election process for determining which~~  
9 ~~customers wish to remain core customers, and which customers~~  
10 ~~opt for nonecore service, administered in a manner that ensures a~~  
11 ~~stable customer base for electrical corporations to support~~  
12 ~~long-term integrated resource planning and investment.~~

13 ~~(h) Requires electric service providers to comply with~~  
14 ~~conditions, including resource adequacy standards, that the~~  
15 ~~commission determines to be necessary and appropriate to ensure~~  
16 ~~there is no adverse effect on the reliability or cost of electricity for~~  
17 ~~core customers.~~

18 ~~(i) Requires electric service providers to comply with the~~  
19 ~~requirements established pursuant to Article 16 (commencing~~  
20 ~~with Section 399.11).~~

21 ~~(j) Permits core customers to purchase renewable power at cost~~  
22 ~~via electrical corporation renewable service options, in addition to~~  
23 ~~an electrical corporation's obligations under Article 16~~  
24 ~~(commencing with Section 399.11).~~

25 ~~(k) Restricts the eligibility of nonecore customers to return to~~  
26 ~~bundled service. Electrical corporation service to returning~~  
27 ~~nonecore customers shall be provided at a fully compensatory rate,~~  
28 ~~and subject to contractual return conditions that prevent any cost~~  
29 ~~shifting.~~

30 ~~(l) Shows that a core/nonecore program will support, and not be~~  
31 ~~detrimental to, system reliability and future investments in~~  
32 ~~electricity infrastructure and the objective of acquiring all~~  
33 ~~cost-effective demand reduction resources on the system.~~

34 ~~(m) Compares the public benefits of core/nonecore to other~~  
35 ~~electric service options, including bundled service and community~~  
36 ~~choice aggregation, as provided in Section 366.2.~~

37 ~~(n) Protects existing contractual rights.~~

38 ~~SEC. 22. Section 365.5 of the Public Utilities Code is~~  
39 ~~repealed.~~

40 ~~SEC. 23. Section 366 of the Public Utilities Code is repealed.~~

1 ~~SEC. 24.—Section 366 is added to the Public Utilities Code, to~~  
2 ~~read:~~

3 ~~366.—(a) New direct transactions shall not be authorized until~~  
4 ~~the commission proposes rules pursuant to Section 365 and those~~  
5 ~~rules are enacted as statutes.~~

6 ~~(b) If a customer account was served by an electric service~~  
7 ~~provider on April 1, 2003, the customer account may continue to~~  
8 ~~be served by that electric service provider.~~

9 ~~SEC. 25.—Section 366.5 of the Public Utilities Code is~~  
10 ~~repealed.~~

11 ~~SEC. 26.—Section 367 of the Public Utilities Code is amended~~  
12 ~~to read:~~

13 ~~367.—The commission shall identify and determine those costs~~  
14 ~~and categories of costs for generation-related assets and~~  
15 ~~obligations, consisting of generation facilities, generation-related~~  
16 ~~regulatory assets, nuclear settlements, and power purchase~~  
17 ~~contracts, including, but not limited to, restructurings,~~  
18 ~~renegotiations or terminations thereof approved by the~~  
19 ~~commission, that were being collected in commission-approved~~  
20 ~~rates on December 20, 1995, and that may become uneconomic as~~  
21 ~~a result of a competitive generation market, in that these costs may~~  
22 ~~not be recoverable in market prices in a competitive market, and~~  
23 ~~appropriate costs incurred after December 20, 1995, for capital~~  
24 ~~additions to generating facilities existing as of December 20, 1995,~~  
25 ~~that the commission determines are reasonable and should be~~  
26 ~~recovered, provided that these additions are necessary to maintain~~  
27 ~~the facilities through December 31, 2001. These uneconomic costs~~  
28 ~~shall include transition costs as defined in subdivision (f) of~~  
29 ~~Section 840, and shall be recovered from all customers or in the~~  
30 ~~case of fixed transition amounts, from the customers specified in~~  
31 ~~subdivision (a) of Section 841, on a nonbypassable basis and shall:~~

32 ~~(a) Be amortized over a reasonable time period, including~~  
33 ~~collection on an accelerated basis, consistent with not increasing~~  
34 ~~rates for any rate schedule, contract, or tariff option above the~~  
35 ~~levels in effect on June 10, 1996, provided that, the recovery shall~~  
36 ~~not extend beyond December 31, 2001, except as follows:~~

37 ~~(1) Costs associated with employee-related transition costs as~~  
38 ~~set forth in subdivision (b) of Section 375 shall continue until fully~~  
39 ~~collected; provided, however, that the cost collection shall not~~  
40 ~~extend beyond December 31, 2006.~~

~~(2) Power purchase contract obligations shall continue for the duration of the contract. Costs associated with any buyout, buydown, or renegotiation of the contracts shall continue to be collected for the duration of any agreement governing the buyout, buydown, or renegotiated contract; provided, however, no power purchase contract shall be extended as a result of the buyout, buydown, or renegotiation.~~

~~(3) Nuclear incremental cost incentive plans for the San Onofre nuclear generating station shall continue for the full term as authorized by the commission in Decision 96-01-011 and Decision 96-04-059; provided that the recovery shall not extend beyond December 31, 2003.~~

~~(4) Fixed transition amounts, as defined in subdivision (d) of Section 840, may be recovered from the customers specified in subdivision (a) of Section 841 until all rate reduction bonds associated with the fixed transition amounts have been paid in full by the financing entity.~~

~~(b) (1) There shall be a firewall segregating the recovery of the costs of competition transition charge exemptions such that the costs of competition transition charge exemptions granted to members of the combined class of residential and small commercial customers shall be recovered only from these customers, and the costs of competition transition charge exemptions granted to members of the combined class of customers, other than residential and small commercial customers, shall be recovered only from these customers.~~

~~(2) The commission shall retain existing cost allocation authority, provided the firewall and rate freeze principles are not violated.~~

*SEC. 21. Section 364.5 is added to the Public Utilities Code, to read:*

*364.5. The commission shall conduct a review to determine whether the standards prescribed in Sections 348 and 364 have been met. If the commission finds that the standards have not been met, the commission may order appropriate sanctions, including penalties in the form of rate reduction or monetary fines. The review shall be performed after every major outage. Any money collected pursuant to this section shall be used to offset funding for the California Alternative Rates for Energy Program.*

~~SEC. 27.—~~

1 SEC. 22. Section 367.5 is added to the Public Utilities Code,  
2 to read:

3 367.5. ~~(a)~~—The commission shall establish a Ratepayer  
4 Refund Account for each electrical corporation. All refunds, net  
5 of litigation costs as authorized by the commission, recovered by  
6 an electrical corporation, either directly or indirectly, by way of  
7 offset against amounts otherwise owed by the electrical  
8 corporation, resulting from any litigation or agreement relative to  
9 the charging of excessive costs for wholesale electricity by  
10 electrical generators, traders, and suppliers that have been  
11 recovered, or are recoverable, from ratepayers in  
12 commission-approved rates, shall be credited to the electrical  
13 corporation's Ratepayer Refund Account in an amount and  
14 manner authorized by the commission *and dispersed for the*  
15 *benefit of ratepayers.*

16 ~~(b) All funds held by an electrical corporation that are required~~  
17 ~~by this section to be credited to the Ratepayer Refund Account of~~  
18 ~~the corporation shall be held in trust for the benefit of ratepayers.~~

19 SEC. 28.—

20 SEC. 23. Section 367.7 of the Public Utilities Code is  
21 repealed.

22 SEC. 29.—

23 SEC. 24. Section 370 of the Public Utilities Code is repealed.

24 SEC. 30.—

25 SEC. 25. Section 373 of the Public Utilities Code is repealed.

26 SEC. 31.—

27 SEC. 26. Section 376 of the Public Utilities Code is repealed.

28 SEC. 32.—

29 SEC. 27. Section 377 of the Public Utilities Code is amended  
30 to read:

31 377. The commission shall regulate the facilities for the  
32 generation of electricity owned by any public utility pursuant to  
33 subdivision (b) of Section 454.10. Notwithstanding any other  
34 provision of law, no facility ~~or site~~ for the generation of electricity  
35 owned by a public utility may be disposed of prior to January 1,  
36 2010. The commission shall ensure that public utility generation  
37 assets remain dedicated for the benefit of the electrical  
38 corporation's bundled customers.

39 SEC. 33.—

40 SEC. 28. Section 378 of the Public Utilities Code is repealed.

~~SEC. 34.—~~

*SEC. 29.* Section 379 of the Public Utilities Code is amended to read:

379. Nuclear decommissioning costs shall be recovered as a nonbypassable charge until the costs are fully recovered. Recovery of decommissioning costs may be accelerated to the extent possible.

~~SEC. 35.—~~

*SEC. 30.* Section 389 of the Public Utilities Code is repealed.

~~SEC. 36.—~~

*SEC. 31.* Section 391 of the Public Utilities Code is repealed.

~~SEC. 37.—~~

*SEC. 32.* Section 392 of the Public Utilities Code is amended to read:

392. Electrical corporations shall disclose each component of the electrical bill as directed by the commission.

~~SEC. 38.—~~

*SEC. 33.* Section 393.2 is added to the Public Utilities Code, to read:

393.2. (a) All metering of customer usage of electricity and customer billing shall be performed by the electrical corporation.

(b) No residential or small commercial customer with average usage of less than 1,000 kilowatthours per month may be required to take service under a time-differentiated rate.

(c) Nothing in this article limits the commission's power or authority with respect to the contents or nature of customer billing. The commission may require an electrical corporation to aggregate a customer's multiple accounts into a single bill, so long as the cost for that activity is recoverable in rates.

~~SEC. 39.—~~

*SEC. 34.* Section 397 of the Public Utilities Code is repealed.

~~SEC. 40.—~~

*SEC. 35.* Section 454.51 is added to the Public Utilities Code, to appear immediately following Section 454.5, to read:

454.51. (a) An incentive mechanism established pursuant to paragraph (2) of subdivision (c) of Section 454.5 for energy supply resources shall provide comparable performance standard incentives for demand reduction resources.

(b) The commission shall ensure timely recovery of the reasonable costs of all cost-effective energy efficiency and other



1 demand reduction programs incurred pursuant to the electrical  
2 corporation's procurement plan authorized pursuant to Section  
3 454.5 that exceed the funding provided through the corporation's  
4 system benefits change established pursuant to Section 399.8.

5 ~~SEC. 41.—~~

6 *SEC. 36.* Section 454.55 is added to the Public Utilities Code,  
7 to appear immediately following Section 454.51, to read:

8 454.55. (a) The commission shall establish and ~~oversee~~  
9 *implement* a long-term, comprehensive integrated resource  
10 planning process that results in a balanced, reliable,  
11 environmentally responsible portfolio of supply and  
12 demand-reduction resources, and is consistent with Sections 454.5  
13 and 701.1, Article 16 (commencing with Section 399.11), and  
14 Chapter 4 (commencing with Section 25300) of Division 15 of the  
15 Public Resources Code.

16 (b) The commission shall ensure that the implementation of an  
17 electrical corporation's procurement plan is consistent with the  
18 long-term resource plan, to the extent feasible.

19 (c) The commission shall require an electrical corporation,  
20 when implementing its procurement plan, to first acquire all  
21 available *cost-effective* energy efficiency resources that ~~are~~  
22 ~~cost-effective~~ *cost effectively meet utility resources needs*  
23 compared to other available long-term resource options.

24 ~~SEC. 42.—~~

25 *SEC. 37.* Section 454.1 of the Public Utilities Code, as added  
26 by Chapter 1040 of the Statutes of 2000, is amended and  
27 renumbered to read:

28 454.6. (a) Reasonable expenditures by transmission owners  
29 that are electrical corporations to plan, design, and engineer  
30 reconfiguration, replacement, or expansion of transmission  
31 facilities or other cost-effective transmission alternatives,  
32 including demand side alternatives, that meet identified need, are  
33 in the public interest and are deemed prudent if made for the  
34 purpose of providing delivery of lower cost electricity to  
35 ratepayers, or maintaining or enhancing reliability, whether or not  
36 these expenditures are for transmission facilities that become  
37 operational.

38 (b) The commission and the Electricity Oversight Board shall  
39 jointly facilitate the efforts of the state's transmission owning  
40 electrical corporations to obtain authorization from the Federal

Energy Regulatory Commission to recover reasonable expenditures made for the purposes stated in subdivision (a).

(c) Nothing in this section alters or affects the recovery of the reasonable costs of other electric facilities in rates pursuant to the commission's existing ratemaking authority under this code or pursuant to the Federal Power Act ( Ch. 12 (commencing with Section 791a), Title 16, U.S.C.). The commission may periodically review and adjust depreciation schedules and rates authorized for an electric plant that is under the jurisdiction of the commission and owned by electrical corporations and periodically review and adjust depreciation schedules and rates authorized for a gas plant that is under the jurisdiction of the commission and owned by gas corporations, consistent with this code.

~~SEC. 43.—~~

SEC. 38. Section 454.10 is added to the Public Utilities Code, to read:

454.10. (a) Consistent with Article 16 (commencing with Section 399.11), Sections 454.5, 701.1, and 762, and Chapter 4 (commencing with Section 25300) of Division 15 of the Public Resources Code, and in order to ensure that service provided by electrical corporations is environmentally clean, efficient, cost-effective to ratepayers, and adequate, the commission may require an electrical corporation that provides distribution service to make direct investments in, or contract with any entity, public or private, for, electric generation plants that are dedicated to serve the customers connected to the electrical corporation's distribution system or grid, consistent with the plan approved by the commission pursuant to Section 454.5.

(b) After a hearing, the commission shall approve rates that provide the electrical corporation a reasonable opportunity to recover its reasonable costs of operating, its reasonable investment in, and a reasonable return on its investment in the electric generation plants, in accordance with Sections 330.6, 451, and 1005.5.

(c) An electrical corporation may meet the obligations of this section by contracting with or entering into projects for construction of electric generation plants jointly with any entity, including, without limitation, the California Consumer Power and Conservation Financing Authority, California municipalities, cooperatives, and joint powers authorities.

(d) Direct investment in electric generation plants is not the exclusive method for electrical ~~corporation's~~ *corporation* to fulfill their obligation to serve retail customers at just and reasonable rates. ~~The~~ *Consistent with Section 583, the* commission shall implement this section through a transparent process that achieves a balanced, reliable, environmentally responsible and cost-effective resource portfolio.

(e) This section does not limit or affect the requirements for utilization of cost-effective energy conservation and renewable resources established pursuant to this division.

(f) *The commission shall protect the interests of consumers by ensuring that investments made pursuant to this section, either rate-based utility investments or long-term contracts with other suppliers, result in the most cost-effective and efficient provision of electricity to consumers.*

~~SEC. 44.—~~

~~SEC. 39.~~ Section 9600 of the Public Utilities Code is repealed.

~~SEC. 45.—~~

~~SEC. 40.~~ Section 9601 of the Public Utilities Code is repealed.

~~SEC. 46.—~~

~~SEC. 41.~~ Section 9602 of the Public Utilities Code is repealed.

~~SEC. 47.—~~

~~SEC. 42.~~ Section 9603 of the Public Utilities Code is repealed.

~~SEC. 48.—~~ Section 9604 of the Public Utilities Code is amended to read:

~~9604.—~~ For purposes of this division, “local publicly owned electric utility” as used in this division means a municipality or municipal corporation operating as a “public utility” furnishing electric service as provided in Section 10001, a municipal utility district furnishing electric service formed pursuant to Division 6 (commencing with Section 11501), a public utility district furnishing electric services formed pursuant to the Public Utility District Act set forth in Division 7 (commencing with Section 15501), an irrigation district furnishing electric services formed pursuant to the Irrigation District Law set forth in Division 11 (commencing with Section 20500) of the Water Code, or a joint powers authority that includes one or more of these agencies and that owns generation or transmission facilities, or furnishes electric services over its own or its member’s electric distribution system.

~~SEC. 49.—~~

~~SEC. 43.~~ Section 9605 of the Public Utilities Code is repealed.

~~SEC. 50.—~~

~~SEC. 44.~~ The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~SEC. 51.—~~

~~SEC. 45.~~ It is the intent of the Legislature to reaffirm, without requiring revision, California's doctrine, as reflected in regulatory and judicial decisions, regarding electrical corporations' reasonable opportunity to recover costs and investments *and the reasonable opportunity to attract capital for investment on reasonable terms.*

~~SEC. 52.—~~

~~SEC. 46.~~ No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

